

R277-401 received final approval by the Utah State Board of Education on July 14, 2017. R277-401 is published in the August 15, 2017 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of September 21, 2017.

R277. Education, Administration.

R277-401. Child Abuse-Neglect Reporting by Education Personnel.

R277-401-[2]1. Authority and Purpose.

~~[A-](1)~~ This rule is authorized ~~by:~~ under

~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision [of]over public education in the Board; [and Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.]~~

~~(b) Section 62A-4a-403, which requires individuals to report suspected child abuse or neglect to appropriate authorities; and~~

~~(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.~~

~~[B-](2)~~ The purpose of this rule is to clarify:

~~(1)a~~ the Board's support for taking early protective measures towards allegations of child abuse~~[-. The daily contact of]~~ by education personnel whose daily contact with children places them in a unique position to identify and refer suspected cases of abuse or neglect~~[-]; and~~

~~(2)b~~ the role of all school employees in reporting and participating in investigations of suspected child abuse and neglect ~~[as required by Section 62A-4a-403].~~

R277-401-[1]2. Definitions.

~~[A- This rule uses the definition of neglected child found in Section 78A-6-105(28).~~

~~— B. This rule uses the definition of abused child found in Section 78A-6-105(2).~~

~~— C. "Board" means the Utah State Board of Education.]~~

~~(1) "Abused child" has the same meaning as defined in Subsection 78A-6-105(2).~~

~~[D-](2) "DCFS" means the Utah Division of Child and Family Services.~~

~~[E-](3) "LEA" [means a local education agency, including local school boards/public school districts, charter schools, and] includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~

~~(4) "Neglected child" has the same meaning as defined in Subsection 78A-6-105(36).~~

R277-401-3. Policies and Procedures.

~~[A-](1)~~ Each LEA shall develop and adopt a child abuse-neglect policy, which shall include, at a minimum, the following provisions[-]:

~~(1)a~~ ~~[School officials]~~ an LEA employee shall cooperate with social service and law enforcement agency employees authorized to investigate charges of child abuse and neglect, including[-]:

(i) allowing appropriate access to students;

(ii) allowing authorized agency employees to interview children consistent with DCFS and local law enforcement protocols;

(iii) making no contact with the parents or legal guardians of children being questioned by DCFs or law enforcement authorities; and

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(iv) maintaining appropriate confidentiality;

[(2)b] an LEA [policies] shall [ensure that] preserve the anonymity of those reporting or investigating child abuse or neglect [is preserved in a manner required by Section 62A-4a-412.]; and

[(3) An LEA policy may direct a school employee to notify the building principal of the neglect or abuse. Such a report to a principal, supervisor, school nurse or psychologist does not satisfy the employee's personal duty to report to law enforcement or DCFS.]

[(4) LEA policies shall direct school employees to cooperate appropriately with law enforcement and DCFS investigators who come into the school, including:

—— (a) allowing authorized representatives to interview children consistent with DCFS and local law enforcement protocols;

—— (b) allowing appropriate access to student records;

—— (c) making no contact with parents/legal guardians of children being questioned by DCFS or local law enforcement; and

—— (d) cooperating with ongoing investigations and maintaining appropriate confidentiality.

—— B. School employee responsibilities]

[(1)c](i) [A]ny school employee who knows or reasonably believes that a child has been neglected, or physically or sexually abused, shall immediately notify the nearest peace officer, law enforcement agency, or DCFS.

[(2)ii] If a school employee reasonably suspects child abuse or neglect, [H]it is not the responsibility of the school employee[s] to prove that the child has been abused or neglected, or determine whether the child is in need of protection. [Investigations are the responsibility of the DCFS.]

(iii) Investigation by education personnel prior to submitting a report should not go beyond that necessary to support a reason to believe that a reportable problem exists.

(2) An LEA policy may direct a school employee to notify a school official of suspected neglect or abuse, but any such requirement shall clarify that notifying a school official does not satisfy the employee's personal duty to report to law enforcement or DCFS.

(3) Persons making reports or participating in an investigation of alleged child abuse or neglect in good faith are immune from any civil or criminal liability that otherwise might arise from those actions, as provided by law.

(4) An LEA shall annually notify an employee of the employee's legal responsibility to report suspected child abuse or neglect to appropriate authorities as described in Section 62A-4a-403.

KEY: child abuse, [incest, faculty,]reporting, students, employee[, education policy]

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401[{3}]